

tain Woods was visibly affected and could scarcely speak in response to the eager congratulations forced upon him.

Inning for Defense.

The inning for the defense came several hours later. A crowd larger than ever was in the courtroom. On the outside was a crowd almost as large. The speaker, J. B. Sinclair, made good at 8 o'clock and closed shortly after 11. Totally unlike that of the one that had preceded it, was, nevertheless, strong and able. In the course of his speech, Mr. Sinclair covered the ground thoroughly in argument with accuracy and in reference to the testimony of Mr. Masie and the sleeves in the shirt worn by McCue on the night of the murder, scored two points against the prosecution. It is said that the final, but apparently certainly gave the defense the best of this argument.

Mr. Sinclair declared that the Commonwealth had established but one indisputable fact, that Mrs. McCue was murdered in her own house on the night of Sunday, September 4th.

Nothing pointed to the accused as the murderer. Against the argument concerning strained relations, he set the testimony of many witnesses. At the same time he ridiculed the contrary testimony adduced by the prosecution. He declared that the differences in accounts given that of the murder were no differences at all, but that the central important statement was present in each, that the prisoner had been attacked and his wife probably killed.

The Burglar Theory.

The burglar theory, he declared to be no more improbable than the theory of wife murder advanced by the Commonwealth.

He discussed the bloody shirt and the scrap of gauze, and called attention to two points not hitherto generally emphasized, that McCue made no attempt to escape and that he was in the house, and the presence of people in his house, and did not try to conceal it before they arrived.

Finally he examined the nature of circumstantial evidence itself, and by the aid of argument pointed out a man for jury the danger of accepting a man for jury without positive, direct knowledge of his guilt.

When Mr. Sinclair concluded he had made an unusually clear and impressive presentation of the other side of the case, the attorneys began to shake fingers at the jury. Mr. Sinclair had gone beyond the evidence in the case.

During the morning McCue, with his children around him, sat staring fixedly at the mobile face of Captain Woods. The prisoner was distinctly ill at ease.

Only Natural.

This was natural for any man undergoing a terrible argument for the murder of his own wife.

He shifted around in his chair a good deal, and his face was frequently dark and frowning.

At night, while Mr. Sinclair argued in his behalf and spoke in touching words of the murdered wife, McCue, not conversely, his little son was asleep on his shoulder. His daughter, Ruby, sat by his side.

To-morrow morning, Captain Ker, of Staunton, will resume the argument for the prosecution. He will be followed by Mr. J. Thinsley Coleman, of Lynchburg, who is associated with the defense.

Mr. John L. Lee, of Lynchburg, the leader of the defense side, will follow Mr. Coleman, and may close before the day is ended. Friday morning, Commonwealth Attorney Gilmer will close the case for the prosecution, and the argument will be at an end. The case may go to the jury Friday.

A lung jury seems very likely. The court to-day warned the jurymen that they must hold their decision in abeyance until all sides are heard. This direction is said to be customary where adjournment is had before the argument is completed.

THE DAY IN COURT.

The Argument Commenced Amid Great Interest.

CHARLOTTESVILLE, VA., Nov. 2.—Not since the trial began has public interest been so manifest to the eye as it was this morning. It had traveled about town that the question of instructions had been settled last night and that the argument would delay the long-awaited argument. A constant stream of people, men, women and children began early to pour into the courthouse and by the time Rogers grabbed the bell-rope, the room was stuffed and full. An unusually large number of ladies were present, and many of them were of the middle-aged, some were of the young. The male portion of the audience ranged from children to decrepit old men.

A great crowd of negroes packed the right gallery.

It was apparent at the outset that the attendance would be crushing and would establish a new record for the trial. At a few moments after 10 o'clock, McCue entered, dressed as usual. Along with him was quite a party of relatives, male and female. After McCue, himself, the two most interesting figures in the group were the prisoners' little son Harry and his pretty child, Ruby. The latter has not been in the courthouse since the early days of the trial and her reappearance provoked a general movement of interest.

McCue kissed both the children and took the girl upon his knee. Her eyes were red, either with weeping or lack of sleep.

The Jury Charged.

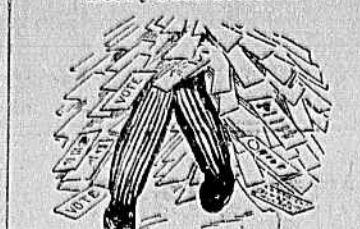
After the usual preliminaries, the court got down to work. Judge Morris spoke briefly to the jury, reminding the gentlemen of the fact that they and they alone were the judges of the case. He then proceeded to read the instructions covering the different points of law involved. The jury listened intently and the entire crowd appeared to be more than ordinarily interested.

A few moments after Judge Morris completed the reading of the instructions, the argument of the case was begun. Everybody was on the tip of expectancy. Captain Micallef Woods arose slowly from his seat. His voice was low, calm, cool; his style classic in its beauty, his manner delightful, with a charm rare in any public speaker. The words of his speech were devoted by Captain Woods to the personal statement of his attitude in the case. He referred to McCue as a former friend whom he had supported, and for whom he had worked in the days gone by, and he expressed his sorrow at being compelled to stand before the jury as the prosecutor of a man whom he had once believed that he would never see again.

No Avenue of Escape.

"Would to God," he declared impressively, "that the evidence had left some escape for the prisoner. That a people of this grand Commonwealth desire to see innocent men to suffer. However, damnable the crime may be, the man accused of it is entitled to all the safeguards of the law. I would rather have a tongue cleave to my anvil or my right arm wither in my sword, than that anything I had said unjustly or unfairly resulted in the conviction of this prisoner. With the distinguished gentlemen who represent the other side, I beg you to give him the full benefit of a doubt before you decide, and the eyes of the State are upon you."

"Berry's for Clothes."



Of course somebody is going to be snowed under, but the country will survive and we shall all continue to wear clothes—and you might just as well buy now as to wait until after election.

A business Sack Suit at \$15.00. Dozens of different patterns and fabrics from which to select.

Its shape, style and fit are absolutely correct on you or we won't offer to sell it. The cheap tailor attempts to duplicate this suit at \$25.00. \$15.00 our price.

O. H. BERRY & CO., Main and 11th Sts.

Proceeding, Captain Woods redrew the picture of the murder and declared that while he wished the accused to have the benefit of every doubt, yet it must be understood that his breast harbored no spark of sympathy for the base and cruel murderer of Fannie McCue. The audience caught his breath when these words were uttered, but there was no demonstration. No Charlottesville crowd would risk the heavy hand of this court that held so capable a hand upon the risibilities of the auditors. Still Judge Morris made assurance doubly sure, leaned forward, interrupted Captain Woods, and informed the people that any demonstration of approval or disapproval would meet with prompt and vigorous punishment. Such a demonstration had occasionally been made the ground for setting aside a verdict.

The Crowd Warned.

"The court will tolerate no interruption of this sort," said the judge. "The sergeants will watch the crowd and see that this order is carried into effect."

The crowd sat still, perfectly still, after that, but at times its endurance was sadly strained. Captain Woods resumed his argument. His voice arose powerfully and filled every cranny in the courtroom. The speaker soon completed the preliminary statement with which he had opened and went on to point out the indisputable facts in connection with the case. He referred to the condition of the night on which Fannie McCue met her death. The air was warm and balmy. Windows were open and neighbors sat upon many nearby porches. Not a house was closed. It was on this night that the wife gave her blood—a wife beaten, choked and then shot. The weapons were both found upon the premises—a bat and a gun. The various theories suggested in connection with the murder were discussed by Captain Woods.

McCue was straining forward in his chair. His eyes were fixed intently upon Captain Woods. He moved uneasily from place to place on the chair.

As soon as he had treated this phase of the case—the relations between McCue and his wife—with adequate fullness, Captain Woods went on to touch upon other matters. He went carefully over the ground again, and indicated what he called straws that pointed to the character of the relations between McCue and his wife. Looked upon as isolated facts, they meant little; reckoned in connection with what had gone before and what came after, they meant much. Among these straws were a half-dozen little incidents—the failure of McCue to walk to church that night with his wife; their attitude toward each other afterwards; the depression of Mrs. McCue while on her way back home and other things.

Night of the Murder.

"After this Captain Woods went on to picture the happenings of the night of the homicide. He pointed to the husband and the wife entering the house together. It was the last time she was seen alive. He called attention to the significance of this interval between the time McCue and his wife entered the house and the time his brother, the physician, was seen to enter. What did it not mean to the woman? It meant life itself. And what of her husband?"

There under the roof with his wife he was her sole protector and guardian. He must be held responsible for her safety. Gentlemen, unless he was senseless from a blow, unless his physical condition was such that he could not go to her aid; gentlemen unless body and mind were alike insensible, then he murdered himself as certain as the sun rose or God created the earth."

Mrs. McCue's Pleadings.

The words of Charles Skinner were read to the jury. Captain Woods used them to draw vividly the picture of the wife sobbing, begging for her life. The negro boy had heard her for several months as she moaned in agony of body and mind.

Is it conceivable that a burglar would have over his victim in this way, torture her, and take her life? The recovery of the man said to have been insensible upon the floor? No, a husband in the privacy of his own home was inflamed by wrath. To him had come the thought that he could now rid himself of this woman who had by her jealousy and hate made his life a hell. He had struck her—crucially struck her. His murderous fingers had closed about her tender throat. Leisurely he went about his task. She pleaded for mercy, but in vain. With a full purpose still unabashed he followed her to her hiding place and then shot her down. The gun was in his hand, loaded and unloaded when he picked it up it was his and he had fired it.

But this was not all. The testimony had shown that the brother of the accused had gone to the house and had been there several moments before the police officers arrived. Why this secrecy? If those in the house were guiltless of any crime? The neighbors were upon their porches. The night was warm and the windows were open.

No Cry for Aid.

A single outcry for help would have brought a dozen strong arms to the rescue. The first instance of human nature, if innocence were there, would have been to cry down the felon; to summon the friends, who would gladly have come to their aid.

"Was it done?" asked Captain Woods. "No," I tell you, gentlemen, that to me this is the strongest and most remarkable feature of this case if the accused is not guilty. I tell you—it is my duty to tell you, and I do not care where the blow will fall—that if he had been innocent that night, he would have cried out to those who would help him and the murderer of his wife. If his brother, when he arrived, had not believed that the prisoner at this bar had stained his hand with the blood of his own wife, you could not have stopped him from alarming the neighbors."

At this point the court ordered a recess until 2 P. M.

AFTERNOON SESSION.

Capt. Woods Resumes and Closes His Interesting Argument.

CHARLOTTESVILLE, VA., Nov. 2.—Within a little over an hour Captain Woods was again speaking. The conditions in the courtroom were almost identical with those before dinner.

At the outset the speaker reverted to the fact that the Commonwealth had established but one indisputable fact, that Mrs. McCue was murdered in her own house on the night of Sunday, September 4th.

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If you wish. Please go out after the letters, Mr. Walker.

"Just a minute, if you please," said Captain Woods, in effect. "The injection of evidence at this time has been expressly foretold by the court. You know all along that the letters were proper as evidence. Why did you not introduce them before?"

Mr. J. B. Sinclair, who had returned with a packet of letters, Captain Woods proceeded with his speech. He dwelt at length upon the domestic conditions reigning in the McCue household and reverted to the statements of witnesses to substantiate his declaration that the prisoner was a brutal and unkind husband. He went thoroughly over what young Crawford and his sister had said and also referred to the statements of Mr. Brand, the negro janitor, Thomas, and others. Finally he reached the testimony of Mr. White, who conversed with McCue in the cell. Here Captain Woods was stern and terrible in his denunciation of the accused.

Called Her That Woman.

"Gentlemen," he said, "this loving wife, this mother of his children and mistress of his home, had gone to the bourne from which no traveler returns. Her spirit had winged its way to a celestial home. Her body was cold and still in death. And what did he do? Did he strike down the one that spoke slightly of her? Did he refer to her with tenderness and love? No, gentlemen, he called her 'that woman,' and he called her 'jealous.' Gentlemen, he said, that for what years his life had been a 'perfect hell.'"

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LOOK FOR THE SEAL

OLD JOE V.O.S.

pure old rye whiskey.

everybody calls it. try now.

"b. & b."

atlanta

one or two of the points with which he had closed the preceding portion of his speech. He went over some of the ground already covered, and then devoted considerable attention to the testimony of Willie McCue. He expressed the greatest pity for the boy; instead of censuring him for his sympathy to his aunt, the young man had written of things as they were. Captain Woods read the letter slowly and distinctly. When he penned these lines, he was thinking only of his dead mother, whom he had placed before his God, and the flush of his indignation, he was ready to brave the truth, let come what may. Then the influences of the other side had begun to gather him in.

Gradually he was weaned away until finally the battle he was fighting was at an end, and he went upon the stand determined to save his father at whatever cost to himself.

Willie's Awful Dilemma.

"One more eloquent than I," said Captain Woods, significantly, "drew for him a picture of what his testimony might do. He was told that his father stood upon the gallows, and that it was he, the son, who was preparing to touch the button that would send him to his death. He shuddered and closed his lips. I have for him only the profoundest sorrow. I have for that last day, when we are summoned upon the judgment seat of heaven to give account of our lives, his guardian angel will drop a tear upon this page of his life and will blot it out."

While Captain Woods spoke young McCue sat a few feet away, silent and immovable. His father was alternately staring at the speaker and leaning back in his chair. Mr. Lee, with his hands over his eyes, was vigorously taking notes.

McCue Was Not Senseless.

Dropping this phase of the case, Captain Woods returned to the statement that if McCue were not senseless on the night of the murder, he must be held responsible before God and man for the safety of his wife. But was his condition so serious? He was not too senseless to send a telephone message to his brother and another to the house of a man who lived nearly a half mile away. There was no outcry. Dr. McCue, his brother, went down the street without calling upon a soul. Why was it thus? Had he received some limitation over the phone in the case, or, knowing the relations between McCue and his wife, did he anticipate some such trouble? The police were not notified. The brothers met silently in the death house and gave to no one the word that a murder had been done. Even John Perry, their tool, had been struck dumb.

"But wait. Through a telephone girl the police had been notified. Grady at the head of his men burst into the house and took them by surprise. 'The cat was out of the bag.' The scheming and preparation was stopped half-finished. In his confusion the murderer told a half dozen different tales. His brother tried to make him go upstairs before he talked too much."

Seven Statements.

Captain Woods read seven different accounts given by the prisoner of the occurrences in the house on the night of the murder.

An innocent man," declared the speaker, "would at once have stated the truth—the plain, unvarnished tale—and this would have been his story from first to last. He would have needed no preparation. From this point until the finish Captain Woods covered a vast portion of ground. He referred to the fact that the body was in the bath-tub and said its presence there was a mystery which nobody could understand.

He held up the bloody shirt and pointed to the blood spots on the back. He drew a vivid picture of the wife fighting her life and leaving on the shirt the tell-tale marks of blood. He called attention to the broken finger nail and the incident of the scrap torn from the shirt. He also of the scrap torn from the shirt. He also of the scrap torn from the shirt. He also of the scrap torn from the shirt.

He read from the testimony of Mrs. Masie that when she saw McCue on the night of the murder, that she saw him with a look of horror upon his face. The speaker declared that the blood of his wife stained those hidden wrist-bands. That the murderer had even then just come from the bath-tub, where he had tried to wash them away.

A Strong Appeal.

In concluding, Captain Woods made a strong, earnest, noble appeal to the jury. He said: "Now, gentlemen of the jury, I think in justice to the accused and in giving your verdict, that you should have given him a fair opportunity. The issues of life and death are involved here. Here was one of the noble women of the Commonwealth, entitled to the shield of every law and every gallant heart; she had been taken rudely and brutally by practically an assassin's hand, not only taken with a sudden blow, which would have sent her to her God, without any of those horrible features of suffering and the horror attendant upon it, but as a fellow catches and nurses the poor helpless mouse in his claws, she was played with about the throat, she was struck about the head; she was there after an interval, shot with her husband's gun. Murder at best is bad, but this was the most foul, strange and unnatural and I but voice the feeling that must stir in every honest bosom; I but voice the feeling of every citizen of this Commonwealth when I say that with such circumstances as these pointing with all the concentrated rage, towards the prisoner of the bar, that you cannot escape your duty."

Choice Rhetoric.

The great public of Virginia, ask for nothing but justice; they ask that you take this case and conscientiously consider every question and every point pertaining to it. It is the highest function and the gravest duty of your life. The great Commonwealth that we love, with our brave people, ask in no spirit of vengeance for one of its citizen's blood, but it asks that murder shall be punished. The great King of Kings upon the tablets, which have come to us from remote ages, from Mt. Sinai, in the living words: 'Thou shalt not murder; thou shalt do no murder'; and all that is asked of you, gentlemen, is, without prejudice against the accused, without bias, one way or the other, to hold in your consciences and in your minds, the scales of justice.

Picture and think and as sensible men passing upon one, perhaps the gravest of all subjects that your mind was ever drawn to, if you shall reach a conclusion in your minds, beyond a reasonable doubt, that this accused is guilty, I say to you in behalf of the people of this Commonwealth, one of whom has been stricken and murdered, I say to you in behalf of the men of this State, who shiver with horror at such an outrage; I say to you in behalf of humanity itself, that he deserves the highest and most condign punishment that human hands can inflict."

A Terrible Strain.

I am about to leave this case in your hands, and I feel deeply the responsibility; I feel for each one of you. I have felt this strain beyond measure; I feel almost that something has gone out of me."

Mr. Sinclair Makes the First Argument for the Defense.

CHARLOTTESVILLE, VA., November 2.—As early as 7 o'clock a great crowd stood jammed against the closed doors of the courthouse. Men, women and children stood patiently awaiting the signal when they could with equal chances make the dash that would secure for them a seat at worst a fair space.

In all the history of the trial, there has been nothing to equal this. It looked as if all of Albemarle had suddenly come bag and baggage and settled on the court green to stay until the trial would reach some sort of an end.

The stuffy room was full in a jiffy and all eyes were all sorts and sizes. Only to stand disconcerted in the night air and brood over their failure to get in. The negro gallery was a solid black mass, just opposite and scattered throughout the audience generally were two or three hundred women. Below the men were gathered a phalanx of school-children, perhaps two hundred men stood silently and patiently awaiting developments.

McCue and Children.

Within the bar the scene was similar to that of the afternoon session. McCue and his four children were the central figures of an interesting group. Around them were gathered other family connections, men and women. At 8 o'clock when Mr. Sinclair, of the defense, arose and addressed the court and the jury.

To the latter he tossed the usual bouquets; he made short work of it, however, and proceeded to plunge straight into the matter in hand. At first, however, he pointed out the law governing circumstantial evidence. He closely followed the line laid down by the court declaring that all circumstantial evidence is insufficient when assuming all to be true while the evidence tends to prove some other reasonable hypothesis may still be true.

It is the actual exclusion of every other reasonable hypothesis which interests men, circumstances with the face of truth. Although the jury may believe from the evidence in the case that there is a strong probability that the accused is guilty, still, if upon the whole evidence, there is any other reasonable hypothesis, consistent with his innocence, they cannot find the accused guilty. And this is true, although it may appear from the evidence that the probabilities of

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